

1 THE HONORABLE JOHN C. COUGHENOUR
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 BERNADEAN RITTMANN, *et al.*,

11 Plaintiffs, CASE NO. C16-1554-JCC

12 v. ORDER

13 AMAZON.COM, INC., *et al.*,

14 Defendants.

15 This matter comes before the Court on Defendants' telephonic motion for leave to take
16 more than 10 depositions. Having thoroughly considered the parties' submissions and the
17 relevant record, the Court DENIES the motion without prejudice for the reasons explained
18 herein.

19 The facts of this case are detailed elsewhere, and the Court will not repeat them here. (*See*
20 Dkt. No. 338 at 1–2.) The parties recently participated in a telephonic conference to resolve a
21 dispute over the number of depositions Defendants are permitted to take. *See* LCR 7(i).
22 Defendants are presently limited to 10 depositions. *See* Fed. R. Civ. P. 30(a)(2)(A)(i). As of the
23 date the telephonic conference was held (November 6, 2024), Defendants had taken zero
24 depositions. Nevertheless, Defendants seek leave of the Court to take 30 depositions. Defendants
25 have not requested to depose particular parties but maintain this is a sprawling case involving 17
26 named Plaintiffs and thousands of potential opt-in Plaintiffs. Defendants argue this justifies more

1 than the 10 depositions permitted without leave of the Court.

2 Plaintiffs oppose Defendants' request, at least at this time, because fewer than 17
 3 Plaintiffs are likely to be class representatives. Plaintiffs represent that they will send Defendants
 4 a proposed deposition schedule for all class representatives ahead of the deadline for a Rule 23
 5 class certification motion. (See Dkt. No. 359 at 2) (establishing December 27, 2024, as the
 6 deadline for Plaintiffs' motion for class certification). As for the opt-in Plaintiffs, they observe
 7 that it is only appropriate to depose those Plaintiffs after and if this Court conditionally certifies
 8 the Fair Labor Standards Act class on the motion currently before it. (See Dkt. No. 341.)

9 The Federal Rules of Civil Procedure establish guidelines that govern discovery,
 10 including depositions. See Fed. R. Civ. P. 26, 30. Rule 30 provides that if the parties have not
 11 stipulated to a deposition, and it would result in more than 10 depositions being taken by one
 12 party, then it may not be taken without leave of the Court. Fed. R. Civ. P. 30(a)(2). The Court
 13 will grant such leave if doing so is consistent with Rule 26(b)(1) and (2). *Id.* In particular, the
 14 court must limit discovery when it is duplicative or inefficient, the party can obtain the
 15 information otherwise, or the information sought is outside the scope of what Rule 26(b)(1)
 16 allows. Fed. R. Civ. P. 26(b)(2)(C).

17 Several district courts, including this one, have concluded that a request for leave to take
 18 more than 10 depositions is premature before a party has exhausted the 10 permitted under Rule
 19 30(a)(2). See, e.g., *Agne v. Rain City Pizza LLC*, 2012 WL 12882906, slip op. at 1 (W.D. Wash.
 20 2012). Under the express terms of Rule 30(a)(2), a party should seek leave of the Court to take
 21 an additional deposition "if the parties have not stipulated to the deposition" and it would result
 22 in more than 10 being taken. Fed. R. Civ. P. 30(a)(2)(A)(i). In addition, courts generally require
 23 the party requesting additional depositions to make a particularized showing as to the
 24 information sought and the deponent at issue. See *Thykkuttathil v. Keese*, 294 F.R.D. 597, 600–
 25 01 (W.D. Wash. 2013) (collecting cases).

26 Defendants have not yet exhausted the depositions allowed without leave of the Court.

1 Nor have they explained who they would additionally depose, why that would result in 30
2 depositions total, or any other particulars that would allow the Court to assess this request under
3 Rule 26(b)(2)(C). Once Defendants take the depositions permitted without leave,¹ the parties
4 should confer and attempt to agree on whether additional depositions are needed. If they cannot
5 so agree, Defendants may seek leave of the Court but must make the required showing. For now,
6 though, the request is premature and incomplete.

7 For the foregoing reasons, Defendants' motion for leave to take more than 10 depositions
8 is DENIED without prejudice.

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10 DATED this 8th day of November 2024.

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26 ¹ If a properly noticed Plaintiff declines to be deposed or is otherwise unresponsive to discovery, the Court reminds Plaintiffs that they are subject to dismissal. (See Dkt. No. 359 at 1.)



John C. Coughenour
UNITED STATES DISTRICT JUDGE